

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AWARDING A CONSTRUCTION CONTRACT TO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH THE LOWEST RESPONSIBLE BIDDER, SUBMITTING A RESPONSIVE BID, EMPIRE LANDSCAPING INC., IN THE AMOUNT OF \$1,603,517.00 AND AUTHORIZING THE DIRECTOR OF ENGINEERING/CITY ENGINEER TO NEGOTIATE AND EXECUTE CHANGE ORDER(S) IN AN AGGREGATE AMOUNT NOT TO EXCEED \$320,000 FOR THE LIGHT RAIL MEDIAN LANDSCAPING PROJECT, PROJECT NO. 2001

WHEREAS, on June 7, 2016, the City Council approved the plans and specifications and authorized the advertisement for construction bid proposals for the Light Rail Median Landscaping Project, Project No. 2001 ("Project"), which provides for the landscaping of the median of Great Mall Parkway under and along VTA's Tasman Rail corridor between Interstate 880 and Montague Expressway; and

WHEREAS, the Engineer's Estimate for the base bid Project work is \$1,889,357.25; and

WHEREAS, the Project was advertised and three sealed bid proposals were received on July 19, 2016. The bid pricing ranged from \$1,578,817.00 to \$2,153,004.00. The lowest responsible bidder submitting a responsive bid is Empire Landscaping Inc. in the amount of \$1,578,817.00; and

WHEREAS, Empire Landscaping's bid contained a bid irregularity wherein two bid items (Bid Items #6 and #49) were incorrectly subtotaled (i.e., there was an arithmetical error in calculating the extended price of these items when taking into account the unit prices bid by Empire Landscaping and the estimated quantities); and

WHEREAS, the City has broad discretion to determine responsiveness and accept a responsive bid even if there are minor irregularities or mistakes, as long as such mistakes are immaterial. (See *Menefee v. County of Fresno* (1985) 163 Cal. App. 3d 1175; *Ghilloti Construction Co. v. City of Richmond* (1996) 45 Cal.App.4th 897); and

WHEREAS, the bid documents for the Project include provisions for addressing inconsistencies between the unit price and the extended price, which resolved the bid error thus rendering it immaterial; and

WHEREAS, no bid protest was filed with the City within five (5) days of the bid opening as set forth in the Project specifications; and

WHEREAS, sufficient funds to award the Project are available in the Project budgets. In accordance with State law, staff recommends the City Council authorize the City Manager to award to and execute a construction contract with the lowest responsible bidder submitting a responsive bid for the Project; and

WHEREAS, due to the Project's tight completion schedule and staff's ability to respond swiftly to unanticipated construction conditions in order to limit potential claims or risk to the City, staff recommends the City Council authorize the Director of Engineering/City Engineer to negotiate and execute change order(s) in an amount not to exceed the construction contingency of \$320,000 established for this Project, which is approximately twenty (20) percent of the estimated construction cost.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council hereby waives the aforementioned immaterial bid irregularity.
3. The City Council hereby awards the construction contract to and authorizes the City Manager to execute a construction contract and related documents with the lowest responsible bidder submitting a responsive bid, Empire Landscaping Inc., for the Project, in the amount of \$1,603,517.00.
4. The Director of Engineering/City Engineer is hereby authorized to negotiate and execute contract change order(s) for the Project in an aggregate amount not to exceed the construction contingency of \$320,000 for the Project.

PASSED AND ADOPTED this _____ day of _____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney



CITY OF MILPITAS
ENGINEERING DEPARTMENT
BID SUMMARY

*11B

Project Name: Light Rail Median Landscaping - Phase II
Project No.: 2001
Bid Date: July 19, 2016

BASE BID				Engineer's Estimate		Empire Landscaping Inc.		Marina Landscape Inc.		Stockbridge General Contracting, Inc.	
ITEM		Qty.	UNIT	Unit Cost	Extension	Unit Cost	Extension	Unit Cost	Extension	Unit Cost	Extension
01	Mobilization (5% max. of Total Base Bid)	1	LS	\$94,600.00	\$94,600.00	\$65,000.00	\$65,000.00	\$78,000.00	\$78,000.00	\$95,000.00	\$95,000.00
02	Regulating Agencies Permits	1	LS	\$38,500.00	\$38,500.00	\$15,000.00	\$15,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00
03	Dewatering	1	LS	\$16,500.00	\$16,500.00	\$5,000.00	\$5,000.00	\$7,000.00	\$7,000.00	\$10,000.00	\$10,000.00
04	Storm Water Pollution Prevention Plan	1	LS	\$27,500.00	\$27,500.00	\$25,000.00	\$25,000.00	\$20,000.00	\$20,000.00	\$98,000.00	\$98,000.00
05	Site Preparation – Temporary Construction Fencing	1	LS	\$13,200.00	\$13,200.00	\$25,000.00	\$25,000.00	\$55,000.00	\$55,000.00	\$47,000.00	\$47,000.00
06	Site Preparation – Construction Signs	2	EA	\$1,650.00	\$3,300.00	\$25,000.00	\$50,000.00	\$1,000.00	\$2,000.00	\$3,000.00	\$6,000.00
07	Traffic Control, Staging & Phasing (5% max. of Total Base Bid)	1	LS	\$94,600.00	\$94,600.00	\$65,000.00	\$65,000.00	\$78,000.00	\$78,000.00	\$90,000.00	\$90,000.00
08	Clearing, Grubbing, Misc. Demolition & Disposal	1	LS	\$44,000.00	\$44,000.00	\$100,000.00	\$100,000.00	\$250,000.00	\$250,000.00	\$50,000.00	\$50,000.00
09	Construction Staking & Layout	1	LS	\$38,500.00	\$38,500.00	\$20,000.00	\$20,000.00	\$5,000.00	\$5,000.00	\$20,000.00	\$20,000.00
10	Sub-Drainage – 4" Perforated HDPE Pipe complete in-place	6,715	LF	\$44.00	\$295,460.00	\$15.00	\$100,725.00	\$32.00	\$214,880.00	\$15.00	\$100,725.00
11	Storm Drainage: Precast Concrete Catch Basins and Junction Boxes, complete in-place	5	EA	\$4,400.00	\$22,000.00	\$5,000.00	\$25,000.00	\$4,500.00	\$22,500.00	\$5,000.00	\$25,000.00
12	Relocate Blow-off Valve complete in-place	1	EA	\$6,600.00	\$6,600.00	\$3,000.00	\$3,000.00	\$4,500.00	\$4,500.00	\$11,000.00	\$11,000.00
13	Miscellaneous Concrete Construction: Vertical Curb Complete in-place & misc. concrete	70	LF	\$110.00	\$7,700.00	\$20.00	\$1,400.00	\$70.00	\$4,900.00	\$60.00	\$4,200.00
14	Grading	1	LS	\$88,000.00	\$88,000.00	\$200,000.00	\$200,000.00	\$78,000.00	\$78,000.00	\$100,000.00	\$100,000.00
15	Hardscape Paving – 4" Class II Baserock w/ (2) layers of Landscape Fabric	11,980	SF	\$2.48	\$29,650.50	\$10.00	\$119,800.00	\$2.75	\$32,945.00	\$4.00	\$47,920.00
16	Concrete Paving - 5' wide Concrete Paving	735	SF	\$19.80	\$14,553.00	\$20.00	\$14,700.00	\$10.50	\$7,717.50	\$30.00	\$22,050.00
17	Precast Concrete Splash Plates	33	EA	\$123.20	\$4,065.60	\$100.00	\$3,300.00	\$140.00	\$4,620.00	\$225.00	\$7,425.00
18	Portland Cement Concrete – 12" wide Concrete Band	3,635	LF	\$11.00	\$39,985.00	\$15.00	\$54,525.00	\$30.00	\$109,050.00	\$31.00	\$112,685.00
19	Wood Headerboards	2,335	LF	\$13.20	\$30,822.00	\$10.00	\$23,350.00	\$5.50	\$12,842.50	\$10.00	\$23,350.00

20	Irrigation System – Connection to Ex. Recycled Water Line	3		EA	\$1,650.00	\$4,950.00	\$5,000.00	\$15,000.00	\$150.00	\$450.00	\$45,000.00	\$135,000.00
21	Irrigation System – Connection to Ex. Irrigation Crossovers	15		EA	\$1,100.00	\$16,500.00	\$5,000.00	\$75,000.00	\$145.00	\$2,175.00	\$500.00	\$7,500.00
22	Irrigation System – Water Meter Connection	3		EA	\$1,870.00	\$5,610.00	\$5,000.00	\$15,000.00	\$4,500.00	\$13,500.00	\$1,750.00	\$5,250.00
23	Irrigation System – Mainline Isolation Valves	9		EA	\$440.00	\$3,960.00	\$1,000.00	\$9,000.00	\$300.00	\$2,700.00	\$600.00	\$5,400.00
24	Irrigation System – Flow Sensor & Master Valve	3		EA	\$2,750.00	\$8,250.00	\$3,000.00	\$9,000.00	\$5,000.00	\$15,000.00	\$4,200.00	\$12,600.00
25	Irrigation System – Ex. City Potable Water Frontage Landscaping and Connections Converted to Recycled Water	1		LS	\$3,850.00	\$3,850.00	\$15,000.00	\$15,000.00	\$3,500.00	\$3,500.00	\$10,500.00	\$10,500.00
26	Irrigation System – 4" Mainline System	100		LF	\$22.00	\$2,200.00	\$15.00	\$1,500.00	\$11.00	\$1,100.00	\$21.00	\$2,100.00
27	Irrigation System – 3" Mainline System	2,060		LF	\$19.80	\$40,788.00	\$10.00	\$20,600.00	\$10.00	\$20,600.00	\$20.00	\$41,200.00
28	Irrigation System – 2-1/2" Mainline System	2,400		LF	\$17.60	\$42,240.00	\$10.00	\$24,000.00	\$10.00	\$24,000.00	\$18.00	\$43,200.00
29	Irrigation System – 1-1/2" Mainline System	1,020		LF	\$15.40	\$15,708.00	\$10.00	\$10,200.00	\$9.00	\$9,180.00	\$11.00	\$11,220.00
30	Irrigation System – 1" Lateral Lines	15,537		LF	\$7.15	\$111,089.55	\$5.00	\$77,685.00	\$4.00	\$62,148.00	\$6.00	\$93,222.00
31	Irrigation System – 1-1/2" Lateral Lines	380		LF	\$8.80	\$3,344.00	\$10.00	\$3,800.00	\$4.00	\$1,520.00	\$8.00	\$3,040.00
32	Irrigation System – 2" Lateral Lines	215		LF	\$12.10	\$2,601.50	\$10.00	\$2,150.00	\$4.50	\$967.50	\$9.00	\$1,935.00
33	Irrigation System – 1" Remote Control & Isolation Valves	18		EA	\$423.50	\$7,623.00	\$400.00	\$7,200.00	\$350.00	\$6,300.00	\$1,200.00	\$21,600.00
34	Irrigation System – 1-1/2" Remote Control & Isolation Valves	21		EA	\$522.50	\$10,972.50	\$500.00	\$10,500.00	\$400.00	\$8,400.00	\$1,500.00	\$31,500.00
35	Irrigation System – 2" Remote Control & Isolation Valves	14		EA	\$302.50	\$4,235.00	\$500.00	\$7,000.00	\$550.00	\$7,700.00	\$1,800.00	\$25,200.00
36	Irrigation System – Tree Bubblers (1) per Tree	169		EA	\$38.50	\$6,506.50	\$50.00	\$8,450.00	\$20.00	\$3,380.00	\$20.00	\$3,380.00
37	Irrigation System – Shrub Bubblers (1) per Shrub	190		EA	\$38.50	\$7,315.00	\$40.00	\$7,600.00	\$20.00	\$3,800.00	\$15.00	\$2,850.00
38	Irrigation System – Stream Rotors	310		EA	\$49.50	\$15,345.00	\$30.00	\$9,300.00	\$50.00	\$15,500.00	\$100.00	\$31,000.00
39	Irrigation System – TR50XT Spray Heads	29		EA	\$55.00	\$1,595.00	\$30.00	\$870.00	\$60.00	\$1,740.00	\$65.00	\$1,885.00
40	Irrigation System – 570's heads	237		EA	\$38.50	\$9,124.50	\$30.00	\$7,110.00	\$40.00	\$9,480.00	\$31.00	\$7,347.00
41	Irrigation System – Quick Couplers	20		LS	\$192.50	\$3,850.00	\$200.00	\$4,000.00	\$190.00	\$3,800.00	\$260.00	\$5,200.00
42	Irrigation System – SBWR Signs	34		EA	\$55.00	\$1,870.00	\$200.00	\$6,800.00	\$150.00	\$5,100.00	\$300.00	\$10,200.00
43	Irrigation Controller – 36 station Satellite Assembly, Enclosures & Antenna	1		EA	\$22,000.00	\$22,000.00	\$25,000.00	\$25,000.00	\$30,000.00	\$30,000.00	\$60,000.00	\$60,000.00
44	Irrigation Controller – 30 station Satellite Assembly, Enclosures Antenna	1		EA	\$16,500.00	\$16,500.00	\$25,000.00	\$25,000.00	\$30,000.00	\$30,000.00	\$55,000.00	\$55,000.00
45	Irrigation - Control Wiring & Conductors	1		EA	\$27,500.00	\$27,500.00	\$10,000.00	\$10,000.00	\$65,000.00	\$65,000.00	\$40,000.00	\$40,000.00
46	Electrical Systems – Meter & Connection to Irrigation Controllers	2		EA	\$4,950.00	\$9,900.00	\$10,000.00	\$20,000.00	\$8,500.00	\$17,000.00	\$7,000.00	\$14,000.00
47	Landscape Plantings – 1 gal (Carex Div.)	8,900		EA	\$17.60	\$156,640.00	\$10.00	\$89,000.00	\$13.00	\$115,700.00	\$15.00	\$133,500.00

48	Landscape Plantings – 1 gal Shrubs (Hem. Lem. & Lan. Mon.)	5,900		EA	\$22.00	\$129,800.00	\$10.00	\$59,000.00	\$13.00	\$76,700.00	\$15.00	\$88,500.00
49	Landscape Plantings – 5 gal Shrubs (Pho. Ten & Dod. Pur.)	204		EA	\$53.90	\$10,995.60	\$30.00	\$6,120.00	\$60.00	\$12,240.00	\$50.00	\$10,200.00
50	Landscape Plantings – 15 gal Tree & Drainrock	172		EA	\$423.50	\$72,842.00	\$100.00	\$17,200.00	\$200.00	\$34,400.00	\$250.00	\$43,000.00
51	Landscape Plantings – 2" layer Bark Mulch with (1) layer Landscape Fabric	174,080		SF	\$0.83	\$143,616.00	\$0.40	\$69,632.00	\$1.15	\$200,192.00	\$1.50	\$261,120.00
52	Construction Maintenance – Existing Street Trees & Existing Irrigation Systems	1		LS	\$5,500.00	\$5,500.00	\$10,000.00	\$10,000.00	\$1,000.00	\$1,000.00	\$15,000.00	\$15,000.00
53	(60) Day Maintenance - Islands A thru. F: Planting, Irrigation & Hardscape Areas	1		LS	\$55,000.00	\$55,000.00	\$10,000.00	\$10,000.00	\$10,500.00	\$10,500.00	\$20,000.00	\$20,000.00
TOTAL		\$1,889,357.25					\$1,603,517.00		\$1,831,727.50		\$2,153,004.00	

							Apparent Lowest Bidder					
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**Bid Summary Corrections: Shown in Bold -
 Empire Landscaping, Inc. (Apparent Lowest Bidder)**

Bid Item #6: Extension corrected from \$25,000 to \$50,000
 Bid Item #49: Extension corrected from \$6,420 to \$6,120
 Total Bid Price: Corrected from \$1,578,817.00 to \$1,603,517.00

LIST OF SUBCONTRACTORS	Empire Landscaping, Inc.	Marina Landscape, Inc.	Stockbridge General Contracting, Inc
Landscaping - Labor	No subcontractors		Elite Landscape Construction
Maintenance			EMTS, Inc.
Traffic Control		D&M Traffic Services	D&M Traffic Services
Concrete			Romero Concrete
Electrical		Lee Contractors	
Temp. Fencing		Pisor Fence Division	

**Construction Change Order Policy for Light Rail Median Landscaping Project
Project No. 2001.**

2007 City Council Approved Construction Change Order Policy

<u>Construction Award Award Amount</u>	<u>Individual Administrative Change Order Authority</u>	<u>Cumulative Change Order Authority</u>
Under \$50,000	\$5,000	\$7,500
Over \$50,000	10% of Award or \$25,000 whichever is smaller	15% of Award or \$100,000 whichever is smaller

Light Rail Median Landscaping Project Change Order Policy

<u>Construction Award Award Amount</u>	<u>Individual Administrative Change Order Authority</u>	<u>Cumulative Change Order Authority</u>
\$1,603,517	N/A	\$320,000